

No. D-1-GV \_\_\_\_\_

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
JUST FOR PEOPLE, INC, ELIZABETH	§	
GABRIELLA "GABBY" PANEQUE,	§	
a/k/a NILDA ODALYS PANEQUE,	§	
a/k/a GABRIELLA GATJNES,	§	
Individually, and doing business as	§	
LEAD GOD, FRANK ALARCON	§	
MARIMON, individually, and doing	§	
business as LEAD GOD,	§	
AYAN MOHAMED ISMAIL,	§	
Individually, and doing business as	§	
LEAD GOD, and	§	
LUZ L. GUERRERO, Individually,	§	
Defendants.	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION, APPLICATION FOR EX PARTE TEMPORARY  
RESTRAINING ORDER WITH ASSET FREEZE AND  
APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTIONS**

COMES NOW THE STATE OF TEXAS, hereinafter referred to as Plaintiff, acting by and through Attorney General of Texas, GREG ABBOTT, complaining of JUST FOR PEOPLE, INC., ELIZABETH GABRIELLA "GABBY" PANEQUE also known as NILDA ODALYS PANEQUE, also known as GABRIELLA GATJNES, individually and doing business as LEAD GOD, FRANK ALARCON MARIMON, individually and doing business as LEAD GOD, AYAN MOHAMED ISMAIL, doing business as LEAD GOD, and LUZ L. GUERRERO, individually, all of which will be referred to collectively as "Defendants," and for cause of action would respectfully show:

## **DISCOVERY CONTROL PLAN**

1. The discovery in this case is intended to be conducted under Level 2 pursuant to Texas Rule of Civil Procedure 190.2(b)(3).

## **NATURE OF THIS SUIT**

2. The Attorney General, acting within the scope of his official duties under the authority granted to him under the Constitution and the laws of the State of Texas, brings this lawsuit in the name of the State of Texas through his Consumer Protection Division against Defendants for violations of the Texas Deceptive Trade Practices - Consumer Protection Act, Texas Business and Commerce Code, sections 17.41 to 17.63 (hereinafter “DTPA”). The DTPA grants authority to the Attorney General to seek injunctive relief and civil penalties for violations of its provisions. Tex. Bus. & Com Code Ann. § 17.47.

## **DEFENDANTS**

3. Defendant JUST FOR PEOPLE, INC. (“Defendant Just for People”) is a corporation organized as a non-profit, conducting business at 8000 Anderson Square, Suite 110, Austin, Travis County, Texas. Defendant Just For People may be served with process, through its registered agent and director, Elizabeth Gabriella Paneque, at her home located at 1214 Settlers Valley Drive, Pflugerville, TX 78660 or at her place of business, 8000 Anderson Square, Suite 110 Austin, Texas, 78757.

4. Defendant Elizabeth Gabriella “Gabby” Paneque (“Defendant Paneque”) is an individual doing business in Austin, Travis County, Texas. She also uses the following aliases: Gabriella Gatjnes and Nilda Odalys Paneque. Defendant Paneque is the director and chief operating officer of Just for People and the co-owner of a business known as “Lead God.” Defendant Paneque may

be served at her home located at 1214 Settlers Valley Drive, Pflugerville, TX 78660 or at her place of business, 8000 Anderson Square, Suite 110 Austin, Texas, 78757.

5. Defendant FRANK ALARCON MARIMON (“Defendant Marimon”) is an individual residing in Williamson County, Texas. He is a director for Defendant Just For People and a co-owner of the business known as “Lead God.” Defendant Marimon may be served with process at his residence at 1214 Settlers Valley Drive, Pflugerville, TX 78660.

6. Defendant AYAN MOHAMED ISMAIL (“Defendant Ismail”) is an individual residing in Travis County, Texas. Defendant Ismail is a co-owner of the business known as “Lead God.” Defendant Ismail may be served with process at her residence located at 8806 Redfield Lane, #209, Austin, TX 78758.

7. Defendant LUZ L. GUERRERO (“Defendant Guerrero”) is an individual residing in Travis County, Texas. Defendant Guerrero is a director for Defendant Just For People. Defendant Guerrero may be served with process at his residence located at 3007 Birdwood Circle, Austin, Texas 78704.

8. “Lead God” is the assumed name under which Defendant Paneque, Defendant Alarcon and Defendant Ismail conduct business in Austin, Travis County, Texas. Service on the Defendants named in this paragraph will provide service on this business.

### **JURISDICTION**

9. This Court has jurisdiction over this action pursuant to section 17.47(b) of the DTPA.

### **VENUE**

10. Venue of this suit lies in Travis County, Texas, for the following reasons:

a. Under Texas Civil Practice and Remedies Code section 15.002(a)(1), venue is

proper because all or a substantial part of the events or omissions giving rise to the claim occurred in the county of suit; and

- b. Under DTPA section 17.47(b), venue is proper because Defendants have done business in the county of suit.

#### **PUBLIC INTEREST**

11. Plaintiff, STATE OF TEXAS, has reason to believe that Defendants are engaging in, have engaged in, or are about to engage in, the unlawful acts or practices set forth below, that Defendants have, by means of these unlawful acts and practices, caused damage to and/or acquired money or property from persons, and that Defendants adversely affected the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

#### **TRADE AND COMMERCE**

12. Defendants have, at all times described below, engaged in conduct which constitutes “trade” and “commerce,” as those terms are defined by section 17.45(6) of the DTPA.

#### **ACTS OF AGENTS**

13. Whenever in this petition it is alleged that a Defendant did any act, it is meant that one of the Defendants performed or participated in the act, or that the officers, agents or employees of Defendants performed or participated in the act on behalf of and under the authority of Defendants.

## NOTICE BEFORE SUIT

14. Defendants Just for People and Paneque were provided notice of their violations of the DTPA at least seven (7) days before the filing of this suit. The State has not provided direct notice to the other Defendants at this time due to lack of time. However, it is probable that the two Defendants who have received notice have provided that notice to their co-defendants.

## APPLICABLE LAW

15. DTPA prohibits “false, misleading, or deceptive acts or practices in the conduct of any trade or commerce . . . .” DTPA § 17.46 (a).

16. The DTPA also prohibits:

a. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services. *Id.* at § 17.46 (b)(2).

b. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another. *Id.* at (b)(3).

c. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have. *Id.* at (b)(5).

d. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law. *Id.* at (b)(12).

e. Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed. *Id.* (b)(24).

17. Title 8, part 292 of the Code of Federal Regulations (CFR) explains who may represent applicants before the Department of Homeland Security and its immigration officers.<sup>1</sup>

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<sup>1</sup>Section 1292 of Title 8 provides identical regulations for who may appear before the Executive Office of State of Texas v. Just For People, Inc, et al., Plaintiff's Original Petition

A. Section 292.1, entitled “**Representation of others**” provides in pertinent part:

(a) A person entitled to representation may be represented by any of the following, subject to the limitations in 8 CFR 103.2(a) (3)<sup>2</sup>:

- (1)<sup>†</sup> *Attorneys in the United States*. . . .
  - (2) *Law students and law graduates not yet admitted to the bar*. . . .
  - (3) *Reputable individuals*. Any reputable individual of good moral character provided that:
    - (i) He is appearing on an individual case basis, at the request of the person entitled to representation;
    - (ii) He is appearing without direct or indirect remuneration and files a written declaration to that effect;
    - (iii) He has a pre-existing relationship or connection with the person entitled to representation (e.g., as a relative, neighbor, clergyman, business associate or personal friend), provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and
    - (iv) His or her appearance is permitted by the DHS official before whom he or she seeks to appear, provided that such permission will not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself or herself out to the public as qualified to do so.
  - (4) *Accredited representatives*. A person representing an organization described in §292.2 of this chapter who has been accredited by the Board.
  - (5) *Accredited officials*. An accredited official, in the United States, of the government to which an alien owes allegiance, if the official appears solely in his official capacity and with the alien's consent.
  - (6) *Attorneys outside the United States*.
- (b) *Persons formerly authorized to practice*. A person, other than a representative of an organization described in §292.2 of this chapter, who on December 23, 1952,

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Immigration Appeals.

<sup>2</sup> This section provides in pertinent part:

An applicant or petitioner may be represented by an attorney in the United States, as defined in §1.2 of this chapter, by an attorney outside the United States as defined in §292.1(a)(6) of this chapter, or by an accredited representative as defined in §292.1(a)(4) of this chapter. . . .

was authorized to practice before the Board and the Service may continue to act as a representative, subject to the provisions of §292.3 of this chapter.

(c) *Former employees.* No person previously employed by the Department of Justice shall be permitted to act as a representative in any case in violation of the provisions of 28 CFR 45.735.

(d) *Amicus curiae.* The Board may grant permission to appear, on a case-by-case basis, as amicus curiae, to an attorney or to an organization represented by an attorney, if the public interest will be served thereby.

(e) Except as set forth in this section, no other person or persons shall represent others in any case.

B. Section 292.2 entitled “**Organizations qualified for recognition; requests for recognition; withdrawal of recognition; accreditation of representatives; roster,**” provides:

(a) *Qualifications of organizations.* A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service alone or the Service and the Board (including practice before the Immigration Court). Such organization must establish to the satisfaction of the Board that:

(1) It makes only nominal charges and assesses no excessive membership dues for persons given assistance; and

(2) It has at its disposal adequate knowledge, information and experience.

(b) *Requests for recognition.* An organization having the qualifications prescribed in paragraph (a) of this section may file an application for recognition on a Form G-27 directly with the Board, along with proof of service of a copy of the application on the district director having jurisdiction over the area in which the organization is located. . . .

\* \* \* \*

(d) *Accreditation of representatives.* An organization recognized by the Board under paragraph (b) of this section may apply for accreditation of persons of good moral character as its representatives. An organization may apply to have a representative accredited to practice before the Service alone or the Service and the Board (including practice before immigration judges). . . . Accreditation terminates when the Board's recognition of the organization ceases for any reason or when the representative's employment or other connection with the organization ceases. The organization shall promptly notify the Board of such changes.

(e) *Roster.* The Board shall maintain an alphabetical roster of recognized

organizations and their accredited representatives. A copy of the roster shall be furnished to the Commissioner and he shall be advised from time to time of changes therein.

C. Section 292.4, entitled “**Appearances,**” provides:

(a) *Authority to appear and act.* An appearance must be filed on the appropriate form as prescribed by DHS by the attorney or accredited representative appearing in each case. . . . When an appearance is made by a person acting in a representative capacity, his or her personal appearance or signature will constitute a representation that under the provisions of this chapter he or she is authorized and qualified to appear as a representative as provided in 8 CFR 103.2(a)(3) and 292.1. Further proof of authority to act in a representative capacity may be required.

### NATURE OF DEFENDANT’S OPERATIONS

18. Defendants prey on one of the most vulnerable group of consumers in Texas, individuals in the United States illegally. Consumers, trying to do the right thing, go to Defendants for assistance to obtain legal status in the United States (“U.S.). **Instead of helping these consumers, Defendants take their money, sometimes a substantial amount of money, provide no assistance, and then threaten the consumers with deportation when they complain.**

19. Defendants offer immigration services for a fee to primarily Spanish-speaking only individuals. Defendants are not attorneys and are not accredited to appear before the Board of Immigration Appeals. Neither Just for People or Lead God is a “recognized” organization, permitted to provide representation for consumers before the Board of Immigration Appeal. These organizations have no attorney on staff. However, Defendants represent that they can assist individuals and provide immigration services, when in fact, by law, they are prohibited from doing so. Despite that prohibition, Defendants have charged consumers for immigration services and have delivered nothing.

## EXHIBITS

20. The Plaintiff relies on the following exhibits in support of its petition and Applications for Ex parte Temporary Restraining Order with Asset Freeze, Temporary Injunction and Permanent Injunction:

A. Exhibit A is the affidavit of Rosalinda Fierro, an investigator with the Office of the Attorney General, providing details on her investigation of the individuals and organizations named in this suit.

B. Exhibit B is a copy of pertinent excerpts of the sworn statement of Anthony Burgos, an individual that purports to have volunteered at the offices of Just for People.

C. Exhibit C is the affidavit of [REDACTED], a consumer who paid Defendants \$11,000 for immigration assistance and received none. Accompanying his affidavit are two exhibits; Exhibit 1 is a copy of payments to Defendants, exhibit 2 is a document that he received from Defendant Just for People and Defendant Paneque.

D. Exhibit D is the affidavit of [REDACTED] whose family paid Defendants \$6380.00 for Immigration assistance and has received none. Accompanying her affidavit are two exhibits; exhibits 1 and 2 of her affidavit are deposits slips that show the money paid to Defendants.

E. Exhibit E is the affidavit of [REDACTED], a consumer who paid Defendants \$6800.00 for assistance in obtaining a visa. He has not received a visa nor did he receive any other immigration assistance from Defendants.

F. Exhibit F is an affidavit from Gary Adkins, an investigator with the Office of the Attorney General, who reviewed documents from Aaron's Rent to Own and interviewed Ms. Paneque and was told by her that she and Just for People assisted individuals with immigration

documents.

G. Exhibit G is an affidavit from Javier Juarez, an investigator with the Office of the Attorney General, who interviewed Ms. Paneque and was told by her that she and Just for People assisted individuals with immigration documents.

H. Exhibit H is a translated copy of the document given to consumer [REDACTED] which is on Just for People letterhead, signed by Ms. Paneque/Gatjnes, as “CEO,” informing a consumer that his paperwork was being processed.

### FACTUAL ALLEGATIONS

21. Defendant Just for People purports to be a non-profit corporation run by a Board of Directors. Defendants Paneque, Alarcon and Guerrero are directors and Defendant Guerrero is also identified as the assistant vice-president of the corporation. Exh. A. Defendant Paneque identifies herself as the chief executive officer of Just for People. Exh. H.

22. Lead God is the name under which Defendants Paneque, Alarcon and Ismail conduct business. Defendant Ismail appears to have attempted to file for non-profit corporate status. See Exh. A, exh.1 (acknowledge of payment). However, the filing was rejected and she was the individual informed. Id. at exh. 2. She and Co-defendants Paneque and Alarcon also filed an assumed name certificate with the Travis County Clerk’s Office. See id. at exh. 3. Her name also appears on the notarization for that certificate. Id.

23. Defendants Alarcon and Paneque are running “Lead God” and Just for People as one business; the two organizations occupy the same office space and use the same office equipment. Id. Director Frank Alarcon pays Just for People expenses out of the Lead God bank account. Exh. B, p. 130, lines 9-11 and exh. 1. In fact, it appears that all the businesses’ operating

expenses are paid through Lead God. Id.

24. Defendants represent to consumers that the Defendants can help them obtain legal residencies papers and go with them to appointments with U.S. immigration authorities. Exh. C and D. Defendants further claim that they can assist consumers in obtaining work visas to allow them to work in the United States. Exh. E. However, Defendants have yet to provide anyone with such assistance. See Exhs. A, C-E. Indeed they are prohibited by law from doing so. 25.

The Defendant organizations must be “recognized” by the Bureau of Immigration Appeals (BIA) to represent consumers before the U.S. immigration services and provide them immigration assistance. Just for People and Lead God are not on the BIA roster of recognized organizations. See exh. A.

26. An individual assisting others with immigration work before the U.S. immigration services must be an attorney or an “accredited representative” listed in the BIA roster. None of the individual Defendants or any individual associated with Defendants is listed as an accredited representative or is an attorney. Exh. A. Mr. Burgos admitted that he had not seen an attorney at Just for People/Lead God. Exh. B. at p. 43, ln. 25 and p. 44, lns.2, 9-11. He further admitted that he was neither an attorney, id. at p. 20, lns. 11-12, nor an accredited representative. Id. at p. 42, lns. 18-22. He also stated that Ms. Paneque was not an accredited representative. Id. at p. 43, lns. 8-10.

27. Nonetheless, Defendants represented to consumers Ocampo, Lopez and Castellano that the Defendants could assist them in obtaining a legal permanent residency or work visa. See Exh.C-E. Further, the Office of the Attorney General has interviewed or received information

from twenty other individuals to whom Defendants made the same or similar representations to them. Exh. A.

28. Ms. Paneque has also informed the Office of the Attorney General investigators that she and Just for People assist individuals who want to apply as immigrants. Ms. Paneque admitted that she showed individuals how to fill out the application forms, identified the documentation that should accompany the application forms, and directed the consumers where to submit the documents. See Exhs. F and G. Mr. Burgos also admitted that he helped consumers fill out immigration paperwork at Just for People. Exh. B at p. 21, lns. 14-22.

29. Consumers have paid Defendants sums that range from \$2500 up to \$50,000 (for an extended family). Exh. A. Consumers thought they were paying for immigration services. See Exhs. C-E. However, consumers have received no immigration services or assistance. Id. and Exh. A. Some consumers have been waiting for up to two years without any information on their applications or acknowledgement from U.S. immigration agencies that the agencies have received the consumers' documents.<sup>3</sup> Exh. A and C.

30. Consumers who do finally realize that Defendants are not providing any services for the money paid find it almost impossible to get a refund. Defendants often threaten consumers who request a refund with deportation. Exh. A. These threats are especially intimidating because Defendant Paneque repeatedly appears at consumers' homes unexpectedly, demanding money. Id. The consumers' fear of retaliation by Defendants is so intense that many have asked that their information not be disclosed to Defendants. Id. Defendants' retaliation will also affect this suit by causing the State to lose witnesses to Defendants' DTPA violations.

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<sup>3</sup> See for example [egov.uscis.gov/cris/Dashboard/CaseStatu/BucketDescriptions.do](http://egov.uscis.gov/cris/Dashboard/CaseStatu/BucketDescriptions.do) (Receipt notice typically sent out within 30 days).  
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Plaintiff's Original Petition

31. While consumers are generally afraid to come forward because of their immigration status, the State's investigators have interviewed twenty-three consumers who have paid approximately \$150,000.00 to Defendants. Id.

32. Defendants appear to have used these monies for personal living expenses and travel. Id. Defendants have not been paying business expenses or paying them only on a sporadic basis. Id. Defendants basically have a cash business but to the extent they do use a bank account, they take most of the money out in cash shortly after it is deposited. Id. Defendants also have set up a very transient lifestyle. Virtually all of the furniture at Defendant Paneque's and Alarcon's home is rented. Exh. F. All of the business equipment and furnishings is also rented. Id.

#### **DTPA VIOLATIONS**

33. Defendants, as alleged above, have, in the course of trade and commerce, engaged in false, misleading and deceptive acts and practices declared unlawful in sections 17.46(a) and (b) of the DTPA, as follows:

- A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services. *See* section 17.46 (b) (2)
- B. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another. *Id.* at (b)(3).
- C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have. *See Id.* at (b)(5).
- D. Representing that an agreement confers or involves rights, remedies, or obligations

which it does not have or involve, or which are prohibited by law. *Id.* at (b) (12).

- E. Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed. *Id.* at (b)(24).

### **EQUITABLE RESCISSION**

34. All agreements between Defendants and their customers should be subject to the equitable remedy of rescission.

### **INJURY TO CONSUMERS**

35. Defendants have, by means of these unlawful acts and practices, obtained money or property from consumers who are entitled to restitution, or in the alternative, have caused actual damages to identifiable persons who are entitled to compensation.

36. Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated the law as alleged in this petition. Unless restrained by this Honorable Court, Defendants will continue to violate the laws of the State of Texas and cause injury to the general public.

### **MOTION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND ASSET FREEZE**

37. The State incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

38. The State alleges that by reason of the foregoing, Defendants should not continue to sell or offer for sale immigration services in violation of the laws of Texas. Unless immediately restrained by this Honorable Court, the Defendants will continue to violate the laws of the State of

Texas and cause immediate, irreparable injury, loss and damage to the State of Texas and to the general public. The interests of the State of Texas and the public require immediate action to keep Defendants from continuing to operate Just for People and Lead God. Further, unless injunctive relief is granted, Defendants will continue collecting monies from consumers by use of false, misleading, or deceptive trade practices. Therefore, the State requests an Ex Parte Temporary Restraining Order with Asset Freeze, Temporary Injunction, and Permanent Injunction, as indicated below. The State is requesting that the Temporary Restraining Order be granted on an *ex parte* basis because if provided notice, the State believes that Defendants will either secrete or remove monies and assets. If Defendants do so, this will cause immediate irreparable damage to the consumers as there will be no monies left for restitution to the consumers.

39. The State of Texas requests that pursuant to Texas Rule of Civil Procedure 680, the Court issue an Ex Parte Temporary Restraining Order, and ORDER that Defendants, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, who receive actual notice of the order by personal service or otherwise, be restrained from engaging in the following acts or practices:

- A. Advertising, offering for sale, selling, or providing an immigration service unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;
- B. Accepting money or valuable consideration for performing an immigration service, unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;
- C. Accepting money or valuable consideration from any person seeking assistance to obtain a benefit under U.S. immigration laws for himself or any other person unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;

- D. Advising any person whether or not to file a petition, application, or other form to obtain a benefit under U.S. immigration laws for himself or any other person unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;
- E. Preparing for any person a petition, application or any other form to obtain a benefit under U.S. immigration laws for himself or any other person unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;
- F. Holding itself/himself/herself out, by any means, to the public as an “immigration specialist,” “immigration counselor,” or “immigration consultant” and by any title or designation incorporating the word “immigration” or an abbreviation thereof unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;
- G. Representing, directly or by implication, that Defendants have the skill, expertise, or competence to handle immigration matters unless Defendants are properly accredited or authorized by the Board of Immigration Appeals;
- H. Showing, directly or by implication, any affiliation, connection, or association with a government agency;
- I. Concealing, withholding, destroying, mutilating, altering, falsifying, or removing from the jurisdiction of this Court any books, records, documents, invoices, receipts, or any other written materials relating to the business of Defendant currently or hereafter in Defendant’s possession, custody or control except in response to further orders or subpoenas in this cause; and
- J. Representing, directly or by implication, that this Court, the Board of Immigration Appeals, Homeland Security or the Office of the Attorney General has approved any good or service sold or offered for sale by Defendants, or approved any of Defendants’ business practices.
- K. Threatening any potential witness and/or former client or family member with deportation or calls to immigration authorities or other law enforcement authorities.

40. Defendants are receiving payments from consumers, see Exh C-E, and yet they are not paying their office or equipment leases. See Exh. F. Instead they are using monies to travel out of the country to Columbia. See Id. Although Defendants are running primarily a cash business,

see Exh. E, they do maintain a business account. Exh. A. A review of their bank account shows that money is withdrawn almost as soon as it is deposited. Id. It thus appears that Defendants are dissipating assets. Therefore, the State of Texas requests that the Court **ORDER** that Defendants, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including, but not limited to, **all financial institutions** such as JP Morgan Chase, holding money in the name and/or for the benefit of the above Defendants, including any accounts for which any named Defendant is a signatory, who receive actual notice of this order by personal service or otherwise, be restrained from engaging in the following acts or practices:

- A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, or allowing the transfer, removal, or withdrawal, from any financial institution or from the jurisdiction of this Court, any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal, or mixed, wherever situated, belonging to or owned by, in the possession of, or claimed by said Defendants.
- B. Destroying, altering, mutilating or otherwise disposing of or changing any records related to any defendant or entity in which any defendant has an ownership interest.
- C. Transferring, concealing, or removing from the jurisdiction of this Court:
  - (i) Any books, records, documents, invoices or other written materials relating to Defendants' business currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause.
  - (ii) Any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal, or mixed, wherever situated, belonging to or owned by, in the possession of, or claimed by said Defendants.

41. The State requests leave of this Court to conduct discovery prior to any scheduled Temporary Injunction Hearing and prior to Defendants' answer date with reasonably shortened deadlines. Any discovery and depositions, telephonic or otherwise, would be conducted with

reasonable shortened notice to Defendants and their attorneys, if known. Further, the State request that Defendants comply with any pre-suit discovery noticed before this suit was filed.

42. The State further requests that this Court order Defendants to provide the State the following information within five business days after the entry of the Temporary Restraining Order:

- A. A list of all motor vehicles in which they have an interest, including the make, model, year and vehicle identification number of each vehicle.
- B. A list of all real property, in or out of the country, in which they have an interest.
- C. A list of all other assets, tangible or intangible.

43. The State is exempt from filing a bond for a temporary restraining order and a temporary injunction under section 6.001 of the Texas Civil Practice and Remedies Code.

#### **APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTION**

44. For the foregoing reasons, the State requests that after due notice and hearing, a TEMPORARY INJUNCTION be issued restraining Defendants from the acts set forth in Paragraphs 39 and 40, *supra*. The State further requests that upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, their officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendants from engaging, directly or indirectly, in the acts or practices set forth in paragraph 39, *supra*.

#### **PRAYER**

45. WHEREFORE, Plaintiff prays that Defendants be cited according to law to appear and answer herein; that after due notice and hearing a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, their officers, agents, servants, employees and attorneys and any other person in

active concert or participation with Defendants as set out in Paragraph 39.

46. In addition, Plaintiff, the State of Texas, respectfully prays that this Court:

- a. Adjudge against Defendants civil penalties in favor of the State of Texas, in the amount not to exceed more than \$20,000.00 per violation;
- b. Order Defendants to restore all money or other property acquired by means of unlawful acts or practices, or in the alternative, to compensate identifiable persons for actual damages;
- c. Adjudge against Defendants reasonable attorney's fees and court costs pursuant to Texas Government Code section 402.006;
- d. Adjudge against Defendants pre-judgment and post-judgment interest at the highest lawful rate;
- e. Rescind all agreements entered into by and between Defendants and consumers;
- f. Appoint a receiver or sequester Defendants' assets if Defendants have been ordered by this Court to make restitution and Defendants have failed to do so within three months after the order to make restitution has become final and non-appealable;
- g. Adjudge that all fines, penalties or forfeitures payable to and for the benefit of the State are not dischargeable under bankruptcy pursuant to 11 U.S.C. section 523(a)(7).

47. Further, Plaintiff, the State of Texas, respectfully prays for all other relief to which Plaintiff, the State of Texas, may be justly entitled.

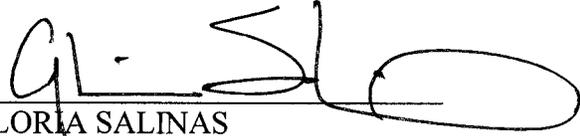
Respectfully submitted,

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DANIEL T. HODGE  
First Assistant Attorney General of Texas

JOHN SCOTT  
Deputy Assistant Attorney General for Civil  
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